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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEVADA

ALAN C. SAMUELS;

Plaintiff,

vs.

DANA KEPNER COMPANY, INC., a
Delaware Corporation; EVOFI ONE, a
Nevada Corporation; and LIBERTY
MUTUAL SURETY, IN RELATION TO
SURETY BOND FOR EVOFI ONE,
DOES 1-10; and ROE
CORPORATIONS, COMPANIES AND
/OR PARTNERSHIPS 11-20, inclusive;

Defendants.

Case No.: 2:10-cv-00686

ECR-LRL

**Stipulated Discovery Plan And
Scheduling Order Submitted In
Compliance with LR 26-1 (e)**

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Plaintiff Alan C. Samuels ("Plaintiff"), by and through his attorney Christian Gabroy, Defendant Dana Kepner Company, Inc., by and through their attorney Elayna J. Youchah, and Defendant Evofi One, by and through their attorney Kenneth Caschette, hereby submit the following Stipulated Discovery Plan and Scheduling Order Submitted in Compliance with LR 26-1(e):

1. **Meeting:** Pursuant to FRCP 26(f) and LR 26-1(e), a conference call was

1 conducted on July 15, 2010, and was attended by Christian Gabroy, Esq. for Alan C.
2 Samuels, Elayna Youchah, Esq. on behalf of Defendant Dana Kepner Company, Inc.,
3 and Kenneth Caschette, Esq., on behalf of Defendant Evofi One:

4 2. **Pre-Discovery Disclosures:** Plaintiff and Defendants have agreed to
5 provide each other with initial disclosures pursuant to FRCP 16(b) within 14 days of this
6 meeting, **July 29, 2010.**

7 3. **Discovery Plan:** The parties, pursuant to LR 26-1(e) hereby agree to the
8 following discovery schedule as outlined in LR 26-1(e):

9 (a) **Subject of Discovery:** Discovery will be needed on the
10 following subjects: All claims set forth in the Complaint as well as the
11 defenses relevant to the action.

12 (b) **Discovery Cut-off Date(s):** The parties request a discovery
13 period of 180 days running from when Defendant Dana Kepner answered
14 the complaint, **June 7, 2010**, which means all discovery must be
15 commenced in time to be completed by **December 6, 2010**. All parties
16 agree that due to the large number of witnesses needed to be deposed,
17 and complexity of the case, discovery extensions may be requested.

18 (c) **FRCP 26(a) (2) Disclosures (Experts):** Disclosure of
19 experts shall proceed as follows: Plaintiff and Defendant shall disclose
20 their experts to each other at least sixty (60) days before the discovery
21 cut-off date, which is by **October 5, 2010**. Plaintiff and Defendant shall
22 disclose their rebuttal experts at least thirty (30) days after the initial date
23 for disclosures of experts, which is by **November 8, 2010**.

24 4. **Other Items.**

25 **Interim Status Reports:** The parties shall file an interim status report
26 ninety (90) days after the date of discovery conference, which is **October 15,**
27 **2010.**

28 (b). **Interrogatories.** The parties agree to the customary total

1 number of interrogatories to 25 per party; the parties may agree to more
2 interrogatories by mutual agreement or application to the court.

3 (c). **Amending the Pleadings and Adding Parties.** The
4 parties have until **September 6, 2010**, to file any motions to amend the pleadings
5 or to add parties. This is ninety (90) days prior to the discovery cut-off date and
6 does not exceed the outside limit LR 26-1(e) (2) presumptively sets of ninety (90)
7 days before the discovery cut-off date of filing such motions.

8 (d). **Settlement.** The parties agree to participate in the
9 Early Neutral Evaluation. It is intended that the parties will engage in discovery
10 permitted by the Federal Rules of Civil Procedure, including but not limited to
11 serving interrogatories, requests for production of documents and requests for
12 admissions.

13 (e). **Court Conference.** The parties do not request a
14 conference with the Court before entry of the scheduling order.

15 (f). **Later Appearing Parties.** A copy of this discovery
16 plan and scheduling order shall be served on any person served after it is
17 entered, or, if additional defendants should appear, within five (5) days of their
18 first appearance. This discovery plan and scheduling order shall apply to such
19 later-appearing parties, unless the Court, on motion and for good cause shown,
20 orders otherwise.

21 (g). **Dispositive Motions.** The parties shall have until
22 **January 3, 2011** to file dispositive motions. This is thirty (30) days after the
23 discovery cut-off date and does not exceed the outside limit of thirty (30) days
24 following the discovery cut-off date that LR 26-1(e)(4) presumptively sets for filing
25 dispositive motions.

26 (h). **Pretrial Order.** The pretrial order shall be filed by
27 **February 2, 2011**, which is not more than thirty (30) days after the date set for
28 filing dispositive motions in the case. In the event a dispositive motion is filed,

the date for filing the pretrial order shall be suspended until thirty (30) days after decision upon the dispositive motion or filing order of the court. The disclosures required by FRCP 26(a) (3) shall be made in the joint pretrial order.

(i). **Extension or Modification of the Discovery Plan and Scheduling Order.** LR 26-4 governs modification or extensions of this discovery plan and scheduling order. Any stipulation or motion must be made not later than twenty (20) days before the discovery cut-off date and comply fully with LR 26-4.

PLAINTIFF

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DEFENDANT DANA KEPNER COMPANY, INC.

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DEFENDANT EVOFI ONE

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 F: 702.952.0560
 Attorney for Defendant Evofi One

IT IS SO ORDERED:

DATED THIS _____ DAY OF _____ 2010

 United States District Court Judge
 United States Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of July 2010 I caused to be served a true and correct copy of the foregoing **Stipulated Discovery Plan and Order Thereto** on the following person(s) by the following method(s) pursuant to FRCP 5(b):

By electronic transmission per FRCP 5

by placing a true and correct copy of the above-mentioned document(s) in a sealed envelope, first class postage fully pre-paid, in the United States mail.

- **A. BY FACSIMILE TRANSMISSION ONLY BY FAXING A TRUE AND CORRECT COPY OF THE SAME TO EACH AT THE FACSIMILE NUMBER(S) INDICATED ABOVE.**

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_____/s/ Christian Gabroy_____
Christian Gabroy